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ART UNIT	PAPER NUMBER
2167	

MAIL DATE	DELIVERY MODE
05/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _12 March 2004_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-11_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-11_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _12 March 2004_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign
> country or in public use or on sale in this country, more than one year prior to the date of
> application for patent in the United States.

2.   Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges et al.

(US Patent No. 6,269,456).

As per claim 1, Hodges teaches a method for controlling the installation behaviors of a

computing device during a software update installation, the method comprising the steps of:

obtaining a software update to be installed on the computing device *(i.e. These and other*

objects are achieved by a method and system for updating local client computers with antivirus

software updates from a central antivirus server, col. 4, lines 50-64);

determining whether an installation attribute is associated with the software update *(i.e. If*

the client computer has not been sent the most recent antivirus updates, the central antivirus

server transmits updated antivirus files to that client computer over the computer network, col. 4,

line 65 to col. 5, line 11);

selectively modifying the installation behavior of the computing device according to the

installation attribute if it is determined that an installation attribute is associated with the

software update *(i.e. The central antivirus server comprises a first database containing*

information related to the latest antivirus software updates contained on each local client

computer, and uses push technology to transmit updated antivirus files if the local client

computer's antivirus files are out of date, col. 4, lines 50-64; and i.e. Among the information

transmitted from client computer 302 to central antivirus server 308 are two items of data used

for achieving automated download and updating of antivirus files on client computer 302. In

particular, (a) the IP address 305 of client computer 302 (e.g., 205.84.4.137), and (b) a unique

user ID (e.g., "BJONES01234") are transmitted to central antivirus server 308, col. 7, lines 33-

44); and

installing the update on the client computer *(i.e. Because human intervention in the*

update process is minimized or eliminated altogether at the client desktop, antivirus

manufacturers are free to distribute antivirus updates as often as necessary to counteract the

latest computer viruses, without the need to worry about overloading users with antivirus update

activity, col. 5, lines 38-48).

Claim 6 is the computer-readable medium to perform the method of claim 1; is similar in

scope to claim 1; and therefore is rejected under similar rationale.

As per claim 11, Hodges teaches a method for controlling the installation behaviors of a

computing device during a software update installation according to associated installation

attributes, the method comprising the steps of:

obtaining a software update to be installed on the computing device *(i.e. These and other*

objects are achieved by a method and system for updating local client computers with antivirus

software updates from a central antivirus server, col. 4, lines 50-64);

determining whether a mandatory installation attribute is associated with the software

update, and if so, modifying the installation behavior of the computing device with respect to the

software update such that the user of the computing device is prevented from selectively not

installing the software update on the computing device *(i.e. If the client computer has not been*

sent the most recent antivirus updates, the central antivirus server transmits updated antivirus

files to that client computer over the computer network, col. 4, line 65 to col. 5, line 11);

determining whether a priority installation attribute is associated with the software

update, and if so, modifying the installation behavior of the computing device with respect to the

software update by temporarily increasing the network bandwidth request for downloading the

software update's content *(i.e. When a data transfer rate between the computer network and any*

local computer falls below a first data rate less than the maximum data rate, the excess transport

capacity is detected and used to allow transmission of updated virus software files from the

central antivirus server to the local computer, col. 5, lines 12-23);

determining whether a deadline installation attribute is associated with the software

update, and if so, modifying the installation behavior of the computing device with respect to the

software update such that the software update will be automatically installed on the computing

device without user interaction if a deadline corresponding the deadline installation attribute has

passed *(i.e. The central antivirus server comprises a first database containing information*

related to the latest antivirus software updates contained on each local client computer, and uses

push technology to transmit updated antivirus files if the local client computer's antivirus files

are out of date, col. 4, lines 50-64);

determining whether a zero service interruption (ZSI) installation attribute is associated with the software update, and if so, modifying the installation behavior of the computing device with respect to the software update such that the software update will be automatically installed on the computing device without user interaction if the computing device is properly configured *(i.e. Among the information transmitted from client computer 302 to central antivirus server 308 are two items of data used for achieving automated download and updating of antivirus files on client computer 302. In particular, (a) the IP address 305 of client computer 302 (e.g., 205.84.4.137), and (b) a unique user ID (e.g., "BJONES01234") are transmitted to central antivirus server 308, col. 7, lines 33-44); and*

installing the update on the client computer *(i.e. Because human intervention in the update process is minimized or eliminated altogether at the client desktop, antivirus manufacturers are free to distribute antivirus updates as often as necessary to counteract the latest computer viruses, without the need to worry about overloading users with antivirus update activity, col. 5, lines 38-48).*

As to claims 2, 7, Hodges teaches determining whether an installation attribute is associated with the software update comprises determining whether a mandatory installation attribute is associated with the software update; and wherein selectively modifying the installation behavior of the computing device according to the installation attribute if it is determined that a mandatory installation attribute is associated with the software update comprises disallowing the user of the computing device to selectively not install the software update on the computing device *(col. 4, line 50 to col. 5, line 48).*

As to claims 3, 8, Hodges teaches determining whether an installation attribute is associated with the software update comprises determining whether a priority installation attribute is associated with the software update; and wherein selectively modifying the installation behavior of the computing device according to the installation attribute if it is determined that a priority installation attribute is associated with the software update comprises temporarily increasing the network bandwidth request for downloading the software update's content *(col. 4, line 50 to col. 5, line 48).*

As to claims 4, 9, Hodges teaches determining whether an installation attribute is associated with the software update comprises determining whether a deadline installation attribute is associated with the software update; and wherein selectively modifying the installation behavior of the computing device according to the installation attribute if it is determined that a deadline installation attribute is associated with the software update comprises: determining whether the deadline for the deadline installation attribute has passed, and if so, automatically installing the software update without further user interaction *(col. 4, line 50 to col. 5, line 48).*

As to claims 5, 10, Hodges teaches determining whether an installation attribute is associated with the software update comprises determining whether a zero system interruption (ZSI) installation attribute is associated with the software update; and wherein selectively modifying the installation behavior of the computing device according to the installation attribute if it is determined that a ZSI installation attribute is associated with the software update

comprises: determining whether the computing device is configured to automatic installation of

ZSI software updates, and if so, automatically installing the software update without further user

interaction *(col. 4, line 50 to col. 5, line 48)*.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's
disclosure.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Miranda Le whose telephone number is (571) 272-4112. The
examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, John R. Cottingham, can be reached on (571) 272-7079. The fax number to this Art
Unit is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be
directed to the Group receptionist whose telephone number is (703) 305-3900.
Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private
PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Miranda Le
May 07, 2007